

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0246.01 Michael Dohr x4347

HOUSE BILL 16-1058

HOUSE SPONSORSHIP

Willett and Fields,

SENATE SPONSORSHIP

Newell and Cooke,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CREATING THE CRIME OF MISUSE OF ELECTRONIC
102 IMAGES BY A JUVENILE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the crime of misuse of electronic images by a juvenile. The offense prohibits a juvenile from knowingly distributing, displaying, or publishing through digital or electronic means, or possessing, a sexually explicit image of himself or herself or of another juvenile who, as depicted in the image, is within 4 years of age of the charged juvenile. If a juvenile is charged with the crime of misuse of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

electronic images by a juvenile, he or she cannot be charged with sexual exploitation of a child. It is an affirmative defense if the juvenile:

- ! Did not solicit or request to be supplied with the image or images;
- ! Did not participate in or encourage the making of the image or images;
- ! Did not transmit or distribute the image or images to another person; and
- ! Took reasonable steps to either destroy or delete the images within 72 hours or reported the receipt of such image or images to law enforcement or a school official within 72 hours.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-6-403, **add** (7) as
3 follows:

4 **18-6-403. Sexual exploitation of a child.** (7) A JUVENILE
5 CHARGED WITH OR ADJUDICATED FOR A VIOLATION OF SECTION 18-7-109
6 BY THE FILING OF A JUVENILE PETITION IN DELINQUENCY PURSUANT TO
7 TITLE 19, C.R.S., SHALL NOT BE SUBJECT TO PROSECUTION FOR A
8 VIOLATION OF THIS SECTION FOR THE SAME ELECTRONIC OR DIGITAL
9 PHOTOGRAPH, VIDEO, OR IMAGE ARISING OUT OF THE SAME CRIMINAL
10 EPISODE.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 18-7-109 as
12 follows:

13 **18-7-109. Misuse of electronic images by a juvenile -**
14 **definitions.** (1) A JUVENILE COMMITS MISUSE OF ELECTRONIC IMAGES IF
15 HE OR SHE:

16 (a) THROUGH DIGITAL OR ELECTRONIC MEANS, KNOWINGLY
17 DISTRIBUTES, DISPLAYS, OR PUBLISHES A SEXUALLY EXPLICIT IMAGE OF
18 HIMSELF OR HERSELF OR OF ANOTHER JUVENILE WHO, AS DEPICTED IN THE
19 IMAGE, IS WITHIN FOUR YEARS OF AGE OF THE CHARGED JUVENILE; OR

1 (b) KNOWINGLY POSSESSES A SEXUALLY EXPLICIT IMAGE OF
2 ANOTHER JUVENILE WHO, AS DEPICTED IN THE IMAGE, IS WITHIN FOUR
3 YEARS OF AGE OF THE CHARGED JUVENILE.

4 (2) IT IS AN AFFIRMATIVE DEFENSE IF THE JUVENILE:

5 (a) DID NOT SOLICIT OR REQUEST TO BE SUPPLIED WITH THE IMAGE
6 OR IMAGES;

7 (b) DID NOT PARTICIPATE IN OR ENCOURAGE THE MAKING OF THE
8 IMAGE OR IMAGES;

9 (c) DID NOT TRANSMIT OR DISTRIBUTE THE IMAGE OR IMAGES TO
10 ANOTHER PERSON; AND

11 (d) TOOK REASONABLE STEPS TO EITHER DESTROY OR DELETE THE
12 IMAGES WITHIN SEVENTY-TWO HOURS OR REPORTED THE RECEIPT OF SUCH
13 IMAGE OR IMAGES TO LAW ENFORCEMENT OR A SCHOOL OFFICIAL WITHIN
14 SEVENTY-TWO HOURS.

15 (3) MISUSE OF ELECTRONIC IMAGES BY A JUVENILE IS A CLASS 2
16 MISDEMEANOR.

17 (4) AS USED IN THIS SECTION:

18 (a) "JUVENILE" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

19 (b) "SEXUALLY EXPLICIT IMAGE" MEANS ANY ELECTRONIC OR
20 DIGITAL PHOTOGRAPH OR VIDEO DEPICTION OF THE EXTERNAL GENITALIA
21 OR PERINEUM OR ANUS OR BUTTOCKS OR PUBES OF ANY PERSON OR BREAST
22 OF A FEMALE PERSON.

23 **SECTION 3. Effective date - applicability.** This act takes effect
24 July 1, 2016, and applies to offenses committed on or after said date.

25 **SECTION 4. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.